

Bi-Weekly with John Goodin

### CWA section 404(g)

#### Upcoming Briefings/Meetings

- 2/3 – Briefing for David Ross on requirements, EPA role, OW role, current state efforts and will include issues raised by states.
- 2/13 - Briefing with David Ross on recommendations and potential paths forward
- Will work to set up prebriefs with Chris H.

### Controlled Correspondence

AL-18-000-1509 - response to Gov. Snyder's request to reconsider EPA's final decision to deny approval of some proposed changes to MI's 404g program – **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP) Response was coordinated with R5, ORC, and OGC.

AX-18-000-1925 – response to environmental group's request to Deny Requests to Reconsider Revisions to Michigan's 404(g) Program from Enactment of MI's Public Act 98. We have a two week extension, but cannot craft until we have response to AL-18-000-1509.

### Lawsuits

- Menominee Tribe of WI – no lawsuit filed as of yet.
  - Earth Justice and the Menominee gave EPA 60 day NOI to sue on scope of waters assumed by MI (in 1984). 60 days has passed.
  - EPA offered to consult with the Menominee on Aquilla Back 40 permit, which is what prompted the NOI. Menominee has not responded to this offer and appears uninterested as they maintain USACE should be the permitting authority and want to consult on the designation of the reach of river as assumed. Note: EPA comments on the MI permit are due in early March.
- County Road 595 – Oral arguments by DOJ in Early December. No decision yet.

### State Assumption

- Meeting in FL 2/27-3/1. Third face to face to assist state in their effort to assume.
- Actively working with IN (call 1/11), scheduling second call on assumption process and state responsibilities post assumption.
- AZ (calls and planning face to face in Feb?)
- MO (had call)
- NE - rumors of NE DOT interest

### State legislative actions

- MI – Senate has introduced 3 bills which have sailed out of committee. Push is from Chamber of Commerce, MI Manufacturing Association (MMFA), and MI Farm Bureau.

## **Ex. 5 Deliberative Process (DP)**

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- FL – proposed legislative changes to the legislature to address gaps in authorities as they look to assume the program.
- AZ – is looking for a sponsor of legislation to have authority to assume the 404(g) program. EPA has not had an opportunity to review for potential gaps in authority. Target is package to EPA in 2019.
- IN – Crafting legislative and regulatory language to assume the program – target is submit package to EPA in 2020.